

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket FR-3365-F-02]

RIN 2502-AF84

Use of Materials Bulletin 101 Used in the HUD Building Product Standards and Certification Program for Exterior Finish and Insulation Systems (EFIS)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts Use of Materials Bulletin (UM) No. 101 Exterior Finish and Insulation Systems (EFIS). The UM references related national voluntary consensus standards, provides a labeling and third party certification program to meet the appropriate national voluntary standards, requires that a third-party inspection at the job site be conducted, provides that additional information be included on the label, tag, or mark that each manufacturer would affix to a certified product, specifies the frequency with which products must be tested in order to be acceptable to HUD, and requires an inspection report regarding installation.

DATES: *Effective date:* October 16, 1995. The incorporation by reference of certain publications listed in the regulations is approved by the Director of Federal Register as of August 16, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie Breden, Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214, L'Enfant Plaza, 490E, 451 Seventh Street SW., Mail Room B-133, Washington, DC 20410-8000; telephone, voice: (202) 755-7440; (TDD) (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Pursuant to HUD's Building Product Standards and Certification Program, which is authorized by Section 521 of the National Housing Act, 12 U.S.C. 1735e, the Department issues Use of Materials Bulletins (UM's). The UM's are issued to provide HUD standards that establish minimum acceptable qualities for certain materials and products to be used in properties subject to mortgages insured by the Department. A UM is

also used as a means of promulgating a labeling and a certification program to assure that the products used meet the appropriate standard.

On June 25, 1993 HUD published in the **Federal Register** (58 FR 34502) an interim rule which adopted Use of Materials Bulletin (UM) No. 101 Exterior Finish and Insulation Systems (EFIS). The rule solicited public comments. Eleven commenters sent comments.

One trade association objected to the elimination of gypsum wallboard. It claimed other parts of the EFIS system fail and then this, in turn, causes the wallboard to fail. The Department agrees that when the gypsum wallboard fails, it is usually the result of a break in the exterior envelope allowing moisture to enter the EIFS system. However, once water gets inside the EFIS system, the paper over the gypsum core debonds resulting in a catastrophic failure of the gypsum wallboard and a loss of the cladding's securement to the building structure. Therefore, the Department has referenced a standard for fiber cement board which remains secure even when wet.

Similarly, two manufacturers desire to use a sheathing material that does not comply with American Society for Testing and Materials C-1186. The Department contends that the sheathing should last as long as the mortgage and since the manufacturer will only guarantee this product for 5 years, it was determined that 5 years is not a long enough time for one to have confidence in the integrity of the whole EFIS system.

One inspection agency suggested that other variables, such as temperature and the esthetic design, should be included in the UM. The Department feels there is a wide range of possible variables in EFIS systems and it was not possible at this time to examine all of these items, but the Department will continue to examine these and other parameters to determine if they have a significant effect on the failure of the EFIS system.

Another trade association suggested that nationally recognized standards such as, Exterior Insulation Manufacturers Association (EIMA) and American Society for Testing and Materials (ASTM) Standards, be referenced in lieu of Military and Federal standards. The Department agrees and has referenced EIMA and ASTM standards wherever possible.

One testing laboratory suggested a new water absorption test for polystyrene foam. The Department will add this test to a future revision of UM 101 when it is adopted by ASTM.

One manufacturer wants a wider definition of fiber cement board than that defined by ASTM C 1186-91. The Department feels that this would require a revision to the ASTM standard. Therefore, the Department has recommended that the appropriate ASTM committee be contacted for revising the existing standard.

Finally, a third party inspection agency suggested that ASTM C 578-92 be referenced instead of ASTM C 578-91. UM 101 has been changed to incorporate UM 71 which contains ASTM C 578-92. It also wants a better definition of hail damage. To date, the Department has not been able to exactly quantify what is meant by hail damage. It is investigating establishing a knowledgeable review by peer inspectors for determining the definition of hail damage.

The Department has evaluated the technical standards for exterior finish and insulation systems and plans to adopt these standards by incorporating them into the UM by reference. The UM's adoption would also augment the labeling requirements of 24 CFR 200.935(d)(6).

The text of the UM is not being produced in the final rule because the substance is embodied in a new section of 24 CFR 200.946 set forth below. However, copies of the UM are available for public inspection during regular business hours in the Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214 L'Enfant Plaza, 490E, Mail Room B-133, Washington, DC, 20410-8000, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500.

National Environmental Policy Act

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement Section 102 (2)(c), of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et. seq.* The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial

number of small entities. This UM would adopt standards that are nationally recognized throughout the affected industry and will not create a burden on manufacturers.

Family Impact

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this final rule does not have potential for significant impact on family formation, maintenance, and general well-being; therefore, it is not subject to review under the order.

Federalism

The General Counsel, as the Designated Official under Section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this final rule would not have substantial direct effect on states or their political subdivisions, or the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the final rule is not subject to review under the order.

Incorporation by Reference

These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR 51. Copies of the standards may be obtained from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103; the Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041; & the Exterior Insulation Manufacturers Association, 2759 State Road 580, Suite 112, Clearwater, Florida 34621.

Copies of the standards are also available for inspection at the Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, Room 3214, L'Enfant Plaza, 490E, Mail Room B-133, Washington, DC 20410-8000, and at the Office of the Federal Register, 800 North Capital Street, NW, Suite 700, Washington, DC.

List of Subjects in 24 CFR Part 200

Administrative Practice and Procedures, Claims, Equal Employment Opportunity, Fair Housing, Housing Standards, Incorporation by Reference, Lead Poisoning, Loan Programs—Housing and Community Development, Minimum Property Standards, Mortgage Insurance, Organization and Functions (Government agencies), Penalties,

Reporting and Recordkeeping Requirements, Social Security, Unemployment Compensation, Wages.

Accordingly, 24 CFR Part 200 is amended as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR 200 continues to read as follows:

Authority: 12 U.S.C. 1701-1715z-(18); 42 U.S.C. 1436a and 3535(d).

2. Section 200.946 is revised to read as follows:

§ 200.946 Building product standards and certification program for exterior finish and insulation systems, use of Materials Bulletin UM 101.

(a) *Applicable standards:* (1) All Exterior Finish and Insulation Systems shall be designed, manufactured, and tested in compliance with the following standards:

(i) ASCE 7-93, American Society of Civil Engineers—Minimum Design Loads for Buildings and Other Structures.

(ii) ASTM C 150-94 Standard Specification for Portland Cement.

(iii) ASTM C 920-87 Standard Specification for Elastomeric Joint Sealants.

(iv) ASTM C-1186-91 Standard Specification for Flat Non-Asbestos Fiber-Cement Sheets.

(v) ASTM D 579-90 Standard Specification for Greige Woven Glass Fabrics.

(vi) ASTM-D 3273-86—(Reapproved 1991) Standard Test Method for Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber.

(vii) ASTM E 330-90 Standard Test Method for Structural Performance of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference.

(viii) ASTM E 695-79 (Reapproved 1991), Standard Method of Measuring Relative Resistance of Wall, Floor, and Roof Construction to Impact Loading.

(ix) ASTM G 26-93 Standard Practice for Operating Light-Exposure Apparatus (Xenon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials.

(x) Council of American Building Officials, Model Energy Code, 1993 Edition.

(xi) EIMA Test Method 101.01-95 (modified ASTM C67-91) Standard Test Method for Freeze/Thaw Resistance of Exterior Insulation and Finish Systems (EIFS), Class PB.

(xii) EIMA Test Method 101.02-95 (modified ASTM E331-91)—Standard Test Method for Resistance to Water

Penetration of Exterior Insulation and Finish Systems (EIFS), Class PB.

(xiii) EIMA Test Method 101.03-95 (modified ASTM C297-91)—Standard Test Method for Determining the Tensile Adhesion Strength of an Exterior Insulation and Finish System (EIFS), Class PB.

(xiv) EIMA Test Method 105.01-95—Standard Test Method for Alkali Resistance of Glass Fiber Reinforcing Mesh for Use in Exterior Insulation and Finish Systems (EIFS), Class PB.

(xv) European Agreement Union Technical Committee—June 88—UEAtc Directives for the Assessment of External Insulation System for Walls (Expanded Polystyrene Insulation Faced with a Thin Rendering) Section 3.3.3.3.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. They are available from:

(i) American Society Civil Engineers (ASCE) 345 East 47th Street, New York, NY 10017.

(ii) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103;

(iii) Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041;

(iv) EAUTC Centre Scientifique ET Technique Du Batiment (CSTB), 84 Avenue Jesu Jaures, B.P. 02-77421 Marne-LA-Valee Cedex 2, Paris, France.

(v) Exterior Insulation Manufacturers Association (EIMA), 2759 State Road 580, Suite 112, Clearwater, Florida 34621-3350.

(3) The standards are available also for inspection at the Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214, L'Enfant Plaza, 490E, Mail Room B-133, Washington, DC 20410-8000, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(b) *Labeling.* Under the procedures as set forth in § 200.935(d)(6), concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applied standard is required to be on the certification label issued by the administrator to the manufacturers. In the case of exterior wall insulation and finish systems, the certification label containing the administrator's mark shall be permanently affixed on the package or container of base and finish coating materials. Further, additional information shall be included on the certification label or mark:

(1) Manufacturer's name.
(2) Manufacturer's statement of conformance with UM 101.
(c) The Administrator shall visit the manufacturer's or sponsor's facility every 6 months, to assure that the initially accepted quality assurance procedures are being followed. At least every four years, the Administrator also shall have the exterior wall insulation and finish systems tested in an approved laboratory to assure that the original performance is maintained.
(d) The administrator's (or administration-accepted inspection agency) inspection of EFIS system installation of 5000 sq. ft. or more, shall be made during and upon completion of the construction. Reports of the inspection shall be made to the owner. These reports shall state:
(1) The coverage of the finish coat per square foot for a given volume of finish.

(2) The minimum thickness of the base and finish coatings.
(3) The fiberglass mesh is installed properly around joints and insulation. All penetrations, including windows, flashing, etc., are sealed; and there is a caulk and sealant continuity evaluation; and
(4) There is a caulk and sealant continuity evaluation with special concerns on maintenance.
(d) The manufacturer shall warrant their exterior wall insulation and finish system, including any caulks and sealants, for twenty years against faulty performance. The warranty shall include correction of delamination, chipping, denting, peeling, blistering, flaking, bulging, unsightly discoloration, or other serious deterioration of the system such as the intrusion of water through the wall or structural failure of the system's surface materials. Should any of these defects occur, the

manufacturer shall make a pro-rata allowance for replacement or pay the owner the amount of the allowance. The manufacturer shall not be liable for damages or defects resulting from misuse, natural catastrophes, or other causes beyond the control of the manufacturer. The contractor shall provide a statement to the owner that the product has been installed in compliance with HUD requirements and that the manufacturer's warranty does not relieve the builder, in any way, of responsibility under the terms of the Builder's Warranty required by the National Housing Act, or under any other housing program.

Dated: May 11, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

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